

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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Kimberly Dibattista,

Plaintiff,

v.

Gragil Associates, Inc.; and DOES 1-10,  
inclusive,

Defendants.

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Civil Action No.: \_\_\_\_\_

**COMPLAINT**

For this Complaint, the Plaintiff, Kimberly Dibattista, by undersigned counsel,  
states as follows:

**JURISDICTION**

1. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to collect a consumer debt.

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

**PARTIES**

4. The Plaintiff, Kimberly Dibattista ("Plaintiff"), is an adult individual residing in Methuen, Massachusetts, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. Defendant Gragil Associates, Inc. (“Gragil”), is a Massachusetts business entity with an address of 29 Winter Street, Pembroke, Massachusetts 02359, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the “Collectors”) are individual collectors employed by Gragil and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. Gragil at all times acted by and through one or more of the Collectors.

### **ALLEGATIONS APPLICABLE TO ALL COUNTS**

#### **A. The Debt**

8. The Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original creditor (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to Gragil for collection, or Gragil was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

#### **B. Gragil Engages in Harassment and Abusive Tactics**

12. Within the last year, Gragil contacted Plaintiff in an attempt to collect the Debt.

13. During a conversation taking place on April 14, 2014, a collector from Gragil failed to state to Plaintiff that Gragil was calling for the purpose of collecting the Debt, and that any information obtained thereafter would be used for the purpose of Debt collection.

14. After the conversation, Plaintiff called Gragil back and asked to speak to a manager. During the conversation, Plaintiff informed the Manager that one of Gragil's collectors had failed to inform Plaintiff that the communication was in an attempt to collect a debt. In response, the Manager falsely stated that Gragil was not required to make the statement.

**C. Plaintiff Suffered Actual Damages**

15. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants' unlawful conduct.

16. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional distress, fear, frustration and embarrassment.

**COUNT I**  
**VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.**

17. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

18. The Defendants' conduct violated 15 U.S.C. § 1692e in that Defendants used false, deceptive, or misleading representation or means in connection with the collection of a debt.

19. The Defendants' conduct violated 15 U.S.C. § 1692e(10) in that Defendants employed false and deceptive means to collect a debt.

20. The Defendants' conduct violated 15 U.S.C. § 1692e(11) in that Defendants failed to inform the consumer that the communication was an attempt to collect a debt.

21. The Defendants' conduct violated 15 U.S.C. § 1692f in that Defendants used unfair and unconscionable means to collect a debt.

22. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

23. The Plaintiff is entitled to damages as a result of Defendants' violations.

**COUNT II**  
**VIOLATION OF THE MASSACHUSETTS CONSUMER PROTECTION ACT,**  
**M.G.L. c. 93A § 2, et seq.**

24. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

25. The Defendants employed unfair or deceptive acts to collect the Debt, in violation of M.G.L. c. 93A § 2.

26. Defendant's failure to comply with these provisions constitutes an unfair or deceptive act under M.G.L. c. 93A § 9 and, as such, the Plaintiff is entitled to double or treble damages plus reasonable attorney's fees.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that judgment be entered against Defendants:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendants;
2. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against Defendants;
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendants;
4. Double or treble damages plus reasonable attorney's fees pursuant to M.G.L. c. 93A § 3(A);
5. Punitive damages; and
6. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: July 7, 2014

Respectfully submitted,

By /s/ Sergei Lemberg

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